APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,808	10/16/2003	Do Nyun Kim	HI-0181	5133

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EXAMINER
HILLERY, NATHAN

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,10-12,14-17 and 19-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,10-12,14-17 and 19-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/11/09*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1.   This action is responsive to communications: Amendment filed on 5/4/09.

2.   Claims 1 – 7, 10 – 12, 14 – 17, and 19 – 23 are pending in the case. Claims 1, 17, 20 and 23 are independent.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.   Claims 20 – 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5.   Claims 20 – 23 recite an algorithm or abstract idea employed in a process that is not embodied in, operates on, transforms, or otherwise involves another class of statutory subject matter, i.e., a machine, manufacture, or composition of matter. In Diehr, the Supreme Court confirmed that a process claim reciting an algorithm could state statutory subject matter if it: (1) is tied to a machine or (2) creates or involves a composition of matter or manufacture. 12 450 U.S. at 184.

6.   For example, processes involving mathematical algorithms used in computer technology are patentable because they claim practical applications and are tied to specific machines. However, mental processes or processes of human thinking standing alone are not patentable even if they have practical application. In other words, claimed systems that depend for their operation on human intelligence alone does not constitute patentable subject matter.

7.   Further, to expedite a complete examination of the instant application, the claims

rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth

below in anticipation of applicant amending these claims to make them statutory.

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9.   Claims 1 – 7, 10 – 12, 14 – 17, and 19 – 23 are rejected under 35 U.S.C. 102(b)

as being clearly anticipated by Do-Nyun Kim et al. (Report of CE on DID

Choice/Selection Preference for MPEG-21 Digital Item Adaptation [as cited by

Applicant]).

10.   **Regarding independent claim 1**, Do-Nyun Kim et al. teach that **applying a**

"ChoicePrecedence" to an input DID instance document; (p 20, Section 3.4.1).

        Do-Nyun Kim et al. teach that **modifying a corresponding**

"ChoicePrecedence" of the input DID instance document in an order designated

in the "ChoicePrecedence"; (p 14, last paragraph).

        Do-Nyun Kim et al. teach that **generating a rearranged DID instance**

document (p 3, Section 2.3).

        Do-Nyun Kim et al. teach that **wherein the "ChoicePrecedence" is an**

absolute precedence, wherein the 'ChoicePrecedence" applies a "BaseChoice (p

45, first table).

11.   **Regarding dependent claim 2**, Do-Nyun Kim et al. teach **a process of inserting a DIAinDID descriptor into the DID instance document is preceded so as to make it possible to modify the input DID instance document adaptably, wherein the DIAinDID represents a corresponding choice** (p 16, Section 3.3).

12.   **Regarding dependent claim 3**, Do-Nyun Kim et al. teach **the DIAinDID descriptor includes a "TargetChoice" and a target choice condition** (p 3, Section 2.2.2.1).

13.   **Regarding dependent claim 4**, Do-Nyun Kim et al. teach **the DID instance document is an original DID instance document** (p 13, Section 3.2.2.1).

14.   **Regarding dependent claim 5**, Do-Nyun Kim et al. teach **the DID instance document is a recently adapted DID instance document obtained by modification just before adaptation** (p 13, Section 3.2.2.1).

15.   **Regarding dependent claim 6**, Do-Nyun Kim et al. teach **the DID instance document is a newly adapted DID instance document generated by a current adaptive modification** (p 3, Section 2.3).

16.   **Regarding dependent claim 7**, Do-Nyun Kim et al. teach that **the "ChoicePrecedence" applies a "SpecifiedPrecedence"** (p 44).

17.   **Regarding dependent claim 10**, Do-Nyun Kim et al. teach that **the**

"ChoicePrecedence" is designated as one of a "First" precedence, a "Second"

precedence, a "Third" precedence and a "Last" precedence (p 44).

18.   **Regarding dependent claim 11**, Do-Nyun Kim et al. teach that **wherein the**

"ChoicePrecedence" includes a "Preemptive" excluding previously considered

choices from consideration and performing a configuration process while

considering only a designated choice (p 44).

19.   **Regarding dependent claim 12**, Do-Nyun Kim et al. teach that **wherein the**

"ChoicePrecedence" includes a "Delete" precedence deleting a designated

choice and performing a configuration process (p 44).

20.   **Regarding dependent claim 14**, Do-Nyun Kim et al. teach that **wherein the**

rearranged DID instance document is generated by using an attribute of "reset"

for using an original DID instance document as an adapted DID instance

document just before in case the "ChoicePrecedence" is applied to generate the

DID instance document (p 15, Section 3.2.2.3).

21.   **Regarding dependent claim 15**, Do-Nyun Kim et al. teach that **wherein the**

rearranged DID instance document is generated by using an attribute of "d" for

referring to choice, which does not exist in an adapted DID instance document

just before, in an original DID instance document in case the "ChoicePrecedence"

is applied to generate the DID instance document (p13, Section 3.2.2.1).

22.   **Regarding dependent claim 16**, Do-Nyun Kim et al. teach that **wherein the**

rearranged DID instance document is generated by using an attribute of "before"

to represent whether to desig-nate higher or lower precedence than a

"BaseChoice" in case the "ChoicePrecedence" is applied to generate the DID

instance document (p 15, Section 3.2.2.2).

23.   **Regarding independent claim 17**, Do-Nyun Kim et al. teach **describing a**

"TargetChoice" of the digital item, a condition if necessary, and a

"ChoicePrecedenceClass"; (p 3, Section 2.2.2.1 and p 12, Section 3.2.1).

Do-Nyun Kim et al. teach that **describing a "SpecifiedPrecedence" or a**

"BaseChoice" to the "ChoicePrecedenceClass", **wherein the**

"ChoicePrecedence" is an absolute precedence (p 45, first table).

Do-Nyun Kim et al. teach that **wherein the "ChoicePrecedenceClass"**

includes a "First" precedence meaning an absolute precedence of a

corresponding choice, a "Second" precedence, a "Third" precedence, a "Last"

precedence, a "Preemptive" precedence, and a "Delete" precedence (p 44).

24.   **Regarding independent claim 19**, Do-Nyun Kim et al. teach that **wherein the**

"ChoicePrecedence" descriptor includes an attribute of "reset" for using an

original DID instance document as a recently adapted DID instance document, an

attribute of "reorder" for referring to choice, which does not exist in an adapted

DID instance document just before, in an original DID instance document, and an

attribute of "before" for representing whether to designate higher or lower

precedence than a "BaseChoice" (pp 13 and 15, Sections 3.2.2.1 – 3.2.2.3).

25.   Regarding claims 20 – 23, the claims incorporate substantially similar subject

matter as claims 1 – 7, 10 – 12, 14 – 17, and 19 and are rejected along the same

rationale.

Conclusion

26.   Applicant's submission of an information disclosure statement under 37 CFR

1.97(c) with the fee set forth in 37 CFR 1.17(p) on 6/11/09 prompted the new ground(s)

of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

FINAL. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy

as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN HILLERY whose telephone number is (571)272-4091. The examiner can normally be reached on M - F, 10:30 a.m. - 7:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W Doug Hutton can be reached on (571) 272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan Hillery/
Examiner, Art Unit 2176